

# BOARD OF CODE STANDARDS AND APPEALS

## MINUTES

**March 5, 2007**

**Members:** Francisco Banuelos, Randy Coonrod, Randy Harder, Richard Hartwell, Bernie Hentzen, Gerald Herzberg, Ed Murabito, Warren Willenberg, John Youle

**Present:** Banuelos, Coonrod, Harder, Hentzen, Herzberg, Murabito, Willenberg

**Staff Members Present:** Kurt Schroeder, Deb Legge, Maria Bias, Elaine Hammons

The regular meeting of the Board of Code Standards and Appeals was called to order by Chairman Murabito on Monday, March 5, 2007, at 1:30 p.m. in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 N. Main, Wichita, Kansas.

### **1. Approval of the Minutes of the February 5, 2007, meeting.**

A motion was made by Board Member Coonrod to approve the minutes of the February 5, 2007, meeting as submitted. Board Member Hentzen seconded the motion. The motion carried, unopposed. (Board Member Harder was not present for this vote.)

### **2. Approval of the March, 2007, license examination application(s) as follows:**

<u>Name</u>	<u>Class</u>	<u>Test Date</u>
Richard L. Hoffman	Roofing & Siding	March 2007
Juan R. Perez	Class D Maintenance	March 2007

Board Member Coonrod requested clarification on the liens and/or judgements pending against Richard L. Hoffman as noted in Mr. Hoffman's application. Mr. Schroeder was uncertain about the specifics of the liens and/or judgements to which Mr. Hoffman referred in his application. Mr. Schroeder said that he would inquire about the circumstances surrounding the liens and/or judgements and provide more details to the Board before the end of the meeting.

Board Member Coonrod made a motion to approve the application of Juan R. Perez for testing, tabling action on the application for Mr. Hoffman until additional information was provided. Board Member Banuelos seconded the motion. The motion passed unopposed. (Board Member Harder was not present for this vote.)

### **3. Condemnation Hearings**

Chairman Murabito requested that the Board Members and City Staff introduce themselves to the citizens in attendance.

#### **Review Cases:**

##### **1. 2007 East 11<sup>th</sup>**

There was no one in attendance as a representative for this property.

This property was first before the Board at the August 7, 2006, hearing; it was before the Board again at the September 11, 2006, hearing; it was also presented to the Board at the November 6, 2006, hearing, the December 4, 2006, hearing, and the February 5, 2007, hearing. The owner, Jim Torske, had appeared before the Board at the February 2007 hearing, and the Board allowed thirty days for the work to be completed.

There has been some work done to the property. The siding installation is in progress; the reroof is complete.

Board Member Coonrod made a motion to allow a thirty-day extension to finish the repairs, maintaining the site in a clean and secure condition in the meantime. Board Member Hentzen seconded the motion. The motion passed without opposition.

##### **2. 2843 E. Stadium**

This property was represented by Keith Mason.

This property was purchased by Troy Newman at a tax foreclosure sale. Shortly after the purchase, it was sold to Mr. Mason. At the February 5, 2007, hearing, Mr. Mason appeared before the Board on behalf of this property. At that time, the Board granted thirty days for repair of the exterior or Mr. Mason would be required to appear before the Board at the March hearing.

The taxes are current, and some work has been done on the property. There are some scattered trash and tree limbs on the site; there are six windows installed; there is a new rear door; the roof appears to be new, although there is no record of a roofing permit having been issued.

Mr. Mason said that the current roof was on the house when he bought it. He affirmed that new windows had been installed, except for two windows, which were ordered but hadn't arrived. The grout in the brick had been sealed, Mr. Mason continued, and the painting on the fascia trim and side boards would

begin that afternoon. Due to the cold temperatures and rainy weather, that was the first opportunity for the painting to be started.

Board Member Coonrod made a motion to allow an additional thirty days to complete the remainder of the exterior repairs, maintaining the premise in a clean and secure condition. Board Member Harder seconded the motion. The motion was approved.

### **3. 1149 N. Market**

There was no representative for this property.

This was first brought to the Board on November 6, 2006; again at the December 4, 2006, hearing; it was also before the Board on February 5, 2007. At the February hearing the Board approved a motion to table action on the property for thirty days to allow the Historic Midtown Citizens Association (HMCA) to attempt to arrange the purchase of the property. Ms. Legge told the Board that she had not heard anything more about the status of HMCA's efforts to obtain the rights to the property.

Mr. Schroeder reported that the City attorney had been trying to contact the attorney representing the daughter of the deceased heir to the property in effort to determine a plausible course of action for the property. In the meantime, Mr. Schroeder suggested that the Board consider deferring action on the property for another thirty days in hopes that the HMCA might be able to acquire the property for the purpose of rehabilitation. In the interim, Central Inspection would assure that the structure was secured.

Board Member Banuelos made a motion to defer action on the property for thirty days. Board Member Willenberg seconded the motion. The motion was approved.

### **4. 1147 N. Green**

This property was represented by Judy Knox.

This property was first before the Board at the December 4, 2006, hearing. Because she was out of state at that time, Ms. Knox represented the property by letter. A motion was made and approved to allow Ms. Knox sixty days to formulate a plan of action for the property and to reappear before the Board, maintaining the site in a clean and secure condition in the interim.

The 2006 taxes in the amount of \$90.00 are due. There are some brush and trash on the premises; although there have been no repairs to date, the structure is secure.

Ms. Knox stated that the taxes on the property were current.

Chairman Murabito requested that Ms. Knox inform the Board of her plans for the property.

Ms. Knox explained that she had purchased the property in August of 2006 at a tax foreclosure sale. She did not receive the deed to the property until late in November of 2006, and received a notice to appear before the Board for a condemnation hearing in approximately the same time frame. She told the Board that she intended to rehabilitate the structure, and had contacted Neighborhood Improvement Services to inquire about potential funds for the repairs. Ms. Knox was able to secure a low interest loan for revitalizing the site, expecting the rehabilitation to cost somewhere between \$30,000 - \$39,000 before its completion.

Upon purchasing the property, Ms. Knox discovered that the house was full of old furniture and other items, which she has since cleaned out of the structure. She conveyed that she had been in Wichita for approximately five weeks, learning about the environment, and interviewing contractors to assess costs for the repairs on the structure. Ms. Knox said she expected to have the rehabilitation of the site completed in three to six months.

Chairman Murabito clarified that the Board's primary interest was the exterior condition of the property, and assuring that the site is maintained in a clean and secure condition. Once the exterior was in compliance, the property would no longer be a concern to the Board. He emphasized that the exterior violations should be the initial focus of the repairs, allowing more time for Ms. Knox to concentrate on the interior work.

Ms. Knox responded that she could take care of the exterior of the property first, including trimming the bushes and removing some of the trees that had grown close to the house, which allowed the limbs to grow through the roof. She indicated that the work on the bushes and trees could be done within one or two weeks. She also said that the house was broken into at some point, and Ms. Knox had made arrangements for a neighbor to help keep an eye on the property; Ms. Knox also has relatives who are living in Wichita and will also keep tabs on the site.

Board Member Coonrod asked whether Ms. Knox had a list of the exterior violations noted by Central Inspection. Ms. Knox confirmed that she had received a list of those violations and that they were all on the exterior. Board Member Coonrod acknowledged that the clean up of the premise could be completed within one or two weeks, but requested that she estimate a time frame for completing the exterior repairs on the structure, reminding her that the exterior violations were the Board's foremost concern. Ms. Knox indicated that it would take a minimum of three months to accomplish the repairs. She said that the list of violations was

somewhat vague to her. Board Member Coonrod suggested that Ms. Knox contact Deb Legge to go over the items and have them clarified as needed.

Board Member Coonrod made a motion that Ms. Knox be granted ninety days to make the exterior repairs, maintaining the premise in a clean condition and the structure secured; the taxes should also be brought current.

Ms. Knox assured the Board that the taxes were current and that the second half of the taxes would be due on April 2, 2007.

Board Member Banuelos seconded the motion. The motion carried unanimously.

#### **5. 2305 N. Waco**

This property was not represented by anyone in attendance at the hearing.

At the January 2007 hearing, Gilbert Moreno, the out-of-state owner, represented this property by way of letter; at the February 2007 hearing, there had been no further contact from Mr. Moreno. After the February hearing, a letter was sent to Mr. Moreno, outlining the Board's decision to allow thirty days for the owner to provide a plan of action for the property; meanwhile, maintaining the site in a clean and secure condition. Mr. Moreno phoned the Office of Central Inspection after receiving the letter stipulating the Board's decision. He assured Ms. Legge that he intended to follow through with repairs; however, Central Inspection has received nothing in writing as to Mr. Moreno's timeline for commencing with the repairs. The structure is secure, and Mr. Moreno has a local agent keeping the property clean. The taxes are current.

In accordance with the motion approved by the Board at the February 5, 2007, hearing, the property was referred to the City Council with a recommendation of demolition action, ten days to initiate demolition and ten days to complete the demolition.

#### **6. 1151 N. Spruce**

This property was represented by Audrey Temaats and Travis Nichols.

Ms. Temaats told the Board that she had appeared at the January 2007 hearing, and had just received the deed to the property as well as a letter to appear before the Board at that time. Since her last appearance before the Board, Ms. Temaats said that a tree located in the rear yard had been removed; and the debris had been removed from the lot. She said that the stretch of inclement

weather had prevented completion of the siding repairs, and requested that the Board grant an extension of ninety days.

Mr. Nichols expressed concern about time constraints for the repair of the property. He told the Board that he and Ms. Temaats had purchased several properties at tax foreclosure sales, many requiring repairs. He told the Board that he doubted that they could get much done at 1151 N. Spruce within ninety days because of the other properties on which they were working. He estimated that it might be six months before work could begin on the Spruce property.

Ms. Legge told Ms. Temaats and Mr. Nichols that the areas of siding that needed to be repaired or replaced were of the greatest concern on the Spruce property.

Ms. Temaats decided that overall the siding was probably not too badly deteriorated. It would be feasible to leave the siding in tact and just replace or repair any areas that needed it. She also mentioned that the dilapidated shed in the rear of the property had been razed. Ms. Temaats said she would contact a contractor to look at the foundation problem. Windows for the house had already been ordered and would soon be installed.

Board Member Harder made a motion to allow an additional ninety days to bring the exterior into compliance, maintaining the property in a clean and secure condition in the meantime. Board Member Coonrod seconded the motion. The motion carried unanimously.

#### **New Cases:**

##### **7. 319 N. Lorraine**

No one was present to represent this property.

Ms. Legge told the Board that the major issue with the property was that bricks were falling out of the rear wall. The wall has since been repaired, and there is a "For Sale" sign in the front yard. She recommended that this property be returned to regular code enforcement.

Board Member Harder made a motion that the property be returned to regular code enforcement. Board Member Coonrod seconded the motion. The motion carried without opposition.

##### **8. 2718 E. 10<sup>th</sup>**

There was no representative present for this property.

This is a one-story brick-over-frame dwelling, approximately 30 X 60 feet in size. It has been vacant for at least four years; it has collapsing exterior basement entrance walls; it has a badly shifting concrete basement wall; it has failing brick siding; the composition roof is deteriorating; the concrete porch slabs are cracking and sinking; there is rotted wood trim; the interior is filled with trash; and the 27 X 27 foot accessory garage is dilapidated.

There has been a case on this property since 2003.

Board Member Harder made a motion to send the property to the City Council for demolition action, with ten days to begin the demolition and ten days to complete demolition. Board Member Willenberg seconded the motion. The motion carried unanimously.

#### **9. 1748 N. Estelle**

There was no representative for this property attending the hearing.

This one-story frame dwelling is about 35 X 38 feet in size. It has been vacant for approximately one and one-half years. The structure has deteriorated and missing metal siding; there is rotted wood siding; there are exposed framing members; the composition roof is deteriorated and sagging; the 6 X 6 metal accessory shed is also dilapidated.

Board Member Willenberg made a motion to refer the property to the City Council with a recommendation of demolition; ten days to start demolition and ten days to finish demolition. Board Member Coonrod seconded the motion. The motion passed.

#### **10. 1954 N. Minneapolis**

There was no one present representing this property.

This one-story frame dwelling is about 24 X 28 feet in size; it is vacant; there are broken and missing asbestos siding shingles over wood siding; the composition roof is deteriorated; there are rotted and missing windows; there is rotted wood trim.

This was originally before the Board as an "Unfit for Habitation" case, which the Board ordered to be vacated.

Board Member Coonrod made a motion to refer the property to the City Council for demolition action; ten days to begin demolition and ten days to complete the

demolition. Board Member Harder seconded the motion. The motion was approved.

#### **11. 637 N. Hoyt**

There was no representative present for this property.

There is a new owner for this property. The structure has been razed. Staff recommended that the Board give the new owner thirty days to clear the debris from the site.

Board Member Coonrod made a motion to allow thirty days for the debris and trash to be cleared from the premise. Board Member Harder seconded the motion. The motion was approved.

#### **12. 1632 S. St. Francis**

Greg Gifford, owner, represented this property.

This one and one-half story frame structure is approximately 32 X 40 feet in size. It is vacant and open; the structure has a shifting concrete block foundation; there is fire damaged and missing wood siding; there are fire damaged framing members; and the composition roof is also fire damaged.

The active file was initiated on this property after the fire. A Notice of Improvement and a Violation Notice to secure it was issued on March 1, 2007. A Pre-condemnation Letter was issued on February 5, 2007, which came back unclaimed. There are fire debris and trash on the premises. The 2006 taxes are delinquent in the amount of \$114.35. Formal condemnation action was initiated on February 6, 2007. The lower portion of the house is secure. Mr. Gifford has been waiting for the arrival of the insurance proceeds in order to begin working on the property.

Mr. Gifford addressed the Board, explaining that he had just received the insurance proceeds. He has contacted Mr. Schoenwald, a structural engineer, to determine whether the roof could be salvaged. Mr. Schoenwald advised Mr. Gifford to remove the damaged roof and replace it with new trusses as depicted in the engineered drawings by Mr. Schoenwald. Mr. Gifford told the Board that the cold weather prevented him from removing the roof because the snow on the roof had been frozen. He said that he planned to turn the half story into attic space; replace the trusses; put a new roof on the structure; and install new siding. He predicted that it would be about thirty days before he could begin work on the property because of a prior obligation that had to complete on another construction site.



Board Member Coonrod asked if the trash and debris were still on the premise. Mr. Gifford confirmed that it was still on the site. Board Member Coonrod inquired if there was anything that would prevent Mr. Gifford from removing the trash and debris. Mr. Gifford said that he planned to have the premise cleaned up within the upcoming week. He explained that most of the trash and debris had been frozen until the temperatures had warmed. He noted that some vandalism had occurred, and recently someone had stolen the new air conditioner at the house.

Board Member Banuelos made a motion to allow ninety days for the exterior work to be completed, keeping the premise clean and secure in the interim. Board Member Coonrod seconded the motion. The motion carried.

### **13. 623 S. Martinson**

This is a one and one-half story frame dwelling; it is about 37 X 40 feet in size. The structure has been vacant for approximately one and one-half years; there is a rotted basement entrance cover; it has broken asbestos siding shingles; it has a deteriorated and sagging composition roof; there are rotted rafter tails; the wooden front porch is badly rotted; the wood rear deck is also badly rotted; it has a fire-damaged north roof overhang and rafter tails.

The file was initiated on this property in January of 1997.

Board Member Harder made a motion to send the property to the City Council with a recommendation of demolition; ten days to start demolition and ten days to complete demolition. Board Member Willenberg seconded the motion. The motion was passed.

The matter of the license application for examination of Richard L. Hoffman was continued, with Mr. Schroeder explaining that Mr. Hoffman was set to make his first appearance in court that evening. After contracting with Mr. Hoffman to do a roofing job, the homeowner contacted Central Inspection with a complaint that the roofing contractor would not come back to complete the job. While investigating the complaint, Central Inspection staff obtained a copy of a contract written by Mr. Hoffman. Mr. Hoffman was issued a Uniform Criminal Complaint for violating the Truth in Advertising law, in addition to contracting without a license. Mr. Hoffman had purchased a permit under another contractor's license. Mr. Schroeder assured the Board that Central Inspection was also pursuing action against the contractor whose license was used in obtaining the permit.

Board Member Coonrod made a motion to table the decision on the license examination application for Mr. Richard L. Hoffman for thirty days, delaying

formal action until the outcome of the impending court hearing. Board Member Harder seconded the motion. The motion was unanimously approved.

Mr. Schroeder presented an overview of the StopBlight Ordinance, and how it may involve the Board in the future. Having been initiated about one and one-half years ago, the ordinance was designed to reduce the number of blighted properties that are condemned and razed; instead, restoring the properties to usefulness. The process for accomplishing that goal included conducting a systematic inventory of blighted properties; strengthening tools to force owner compliance; identifying ways to acquire noncompliant property; and correcting blighting conditions and replacing them with safe, affordable housing.

Currently there are approximately 650 to 700 boarded residential structures in the City of Wichita; of that number, about one-half of them are in poor condition. The Neighborhood Inspectors carry an active caseload of around 4,000 cases; nearly thirty percent of those cases are vacant structures.

Blighted properties are a detriment to the neighborhood, as well as a tax burden to the citizens. Blighted properties decrease both the value of surrounding properties and desirability for people to move into the neighborhood. These properties are often tax delinquent; additionally, tax money is used to board the structures and to remove the buildings in the cases of extreme deterioration.

The five strategies for moving toward that target were identified as follows:

- 1. Work with Sedgwick County to pursue timelier tax-foreclosure sales; take advantage of the Kansas statute that allows “special” tax foreclosure sales; and actively bidding on tax-delinquent/foreclosed property.**

This strategy includes the use of the laws already in place that allow tax foreclosure sales for properties that have a tax-delinquency of three years. This would encourage taxes to be kept current or back taxes paid to prevent the County from auctioning the properties at the tax-foreclosure sale. If the property is sold by the County due to delinquent taxes, a new owner would bring the taxes current, and likely rehabilitate the property.

There is also a “special” tax-foreclosure sales law that allows non-profit housing corporations to bid sooner on property that is considered to be abandoned; the taxes on abandoned property only have to be delinquent for one or two years.

The City and the County have identified minor changes in State legislation which will clarify the requirements for the County to notify property owners prior to the tax sale process; provide for a recovery of costs when the County or a nonprofit entity improves properties that are being held for tax sale; and will provide for a

shorter holding period for certain abandoned properties, so they can be put up for sale if the owners are inaccessible.

**2. Identify resources to purchase/bid on and rehabilitate properties.**

Some of the resources might include a redevelopment authority; a neighborhood non-profit entity; as well as the City of Wichita. The Housing and Community Services Department is currently working with the StopBlight team to utilize Federal funds to acquire and rehabilitate properties and to help the nonprofit entities that they support acquire the properties.

**3. Strengthen boarded/abandoned building policies.**

These policies would directly affect the Board in that the Board of Code Standards and Appeals would hear some of the appeals of non-compliant owners. On November 14, 2006, the City Council approved ordinance changes to implement the Neglected Buildings Code (Chapter 30); the Housing Code Ordinance (Chapter 20) Amendments. The ordinances became effective on November 24, 2006.

Mr. Schroeder requested that Ms. Legge clarify the basis of both the Neglected Buildings Code and the Housing Code Ordinance Amendments. Ms. Legge explained that there are two types of neglected buildings; one type is unoccupied or vacant, and the other type is occupied. She elaborated on the two types of neglected buildings. Defining an unoccupied neglected building, Ms. Legge told the Board that it is a structure where the owner has ignored the notices sent by Central Inspection, has made no contact with Central Inspection, and has not taken action to abate the violations; the structure has been boarded up for more than ninety days; it may have unsecured windows and/or doors and/or other openings; has significant fire, wind or water damage and is uninhabitable; is a criminal nuisance as defined by State law; has experienced substantial deterioration due to lack of maintenance. An occupied neglected building is a structure that has many of the same elements as an unoccupied structure; including an owner who fails to appear in court per process service; and an owner who refuses certified notices.

**4. Require local property agent registration.**

Advisory notices have been sent out to property owners that have boarded properties, notifying them that the new ordinances have been adopted. The owners are also advised that their property must be registered with Central Inspection, and requiring a registration fee of \$25.00. If the property is unoccupied, a Statement of Intent is also required, which states in writing how long the owner expects to have the property vacant and the plan of action to be taken by the owner (demolition, repair or sale). Any reasonable plan with a reasonable time line will be accepted by Central Inspection and the staff will work

with the owner in those circumstances. Any appeals that arise from Central Inspections rejection of Statements of Intent as submitted will be brought before the Board of Code Standards and Appeals.

Additionally, any out-of-state owner is required to designate a local person who can be reached or whom a notice can be served upon in the owner's absence, who will be responsible for the property as the owner's agent.

Penalties for violations of the new ordinances are civil penalties. Owners, who fail to register after proper notice, or fail to comply with the approved Statement of Intent, may be liable for a civil penalty of \$250 per building for each ninety-day period of non-compliance, not to exceed \$1,000 per calendar year. The penalties may be collected by any lawful method, such as through a collection agency, reported to a credit bureau, initiation of civil actions in District Court to recover fees and/or to foreclose liens.

The changes to the Housing Code will provide necessary clarifications to some of the terminology, which has clouded prosecution in some instances in the past.

The amendments also provide for stiffer penalties for owners who have subsequent offenses, raising the amount of the minimum fines assessed to those owners. Each day that the violation continues shall constitute a separate offense and will be punishable. In addition to the fines, required community service and/or imprisonment, the court may also require that the owner register their property as required by the Neglected Buildings Code.

##### **5. Create means to acquire and "bank" land for reuse.**

Mr. Schroeder apprised the Board of the proposed creation of a Redevelopment Authority or similar entity/entities. This would assist the acquisition of property that could be rehabilitated and used for housing, rather than requiring demolition. The strategy for creating this entity is still in the planning process.

Other initiatives in place that complement StopBlight are the Housing Code Diversion Program for First Time Offenders; Project **Rehab Houses Abandoned By Owners (REHAB)**, to repair abandoned housing using currently available State laws; and the **StopBlight Action Response Team (START)**.

The diversion program provides the property owner time to abate all housing conditions to avoid conviction. It can defer prosecution for up to nine months, but generally not longer than six months. This is for first time offenders who may have been, for valid reasons, unable to abate the violations, but intend to bring the property in compliance. The program will allow that owner to work out a reasonable time frame for compliance, and if the defendant follows through with the repairs, the charge will be dismissed at the end of the diversion period.

Project REHAB is a program that would allow Housing and Community Services and other nonprofit housing organizations to work in conjunction with State law in tax foreclosures or special purchases or tax sales of property that has been identified as abandoned in order to put those properties into the hands of those who would rehabilitate the houses for occupancy.

Mr. Schroeder opened the floor for questions from the Board.

Board Member Coonrod noted that currently when a property is brought before the Board, if it is boarded and kept clean and secure, it is removed from the condemnation list and returned to regular code enforcement. He asked if it could remain in that state indefinitely. Mr. Schroeder replied that the purpose of the Statement of Intent is to eliminate an indefinite "boarded" status. Board Member Coonrod inquired about the time frame that would be permitted for structures that were maintained in a clean and secure condition, but were boarded up. Mr. Schroeder stated that the consideration of time would have to be determined on a case by case basis. An owner that purchases property at a tax foreclosure sale may not receive the deed to the property for up to six months. Unable to actually begin repairs, the owner may choose to board up the structure until the deed is in his possession.

Board Member Coonrod also inquired about a suggested general policy that should be used as a guideline for properties brought before the Board under the new ordinance and amendments. Mr. Schroeder proposed that a logical time allowance would be six to nine months, depending upon each situation.

With no other business to conduct, Board Member Coonrod made a motion to adjourn the meeting. Board Member Harder seconded the motion. The motion passed.

The meeting was adjourned at 2:48 p.m.